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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

STATE OF ALASKA,
Plaintiff,

v.

UNITES STATES OF AMERICA,
Defendant.

Civil Action No.: 3:18-cv-00265-SLG

JOINT STATUS REPORT

Pursuant to the Court's February 10, 2025, Order on Motion to Continue Trial (ECF No. 97), the Parties submit the following Joint Status Report.

On February 20, 2025, and February 27, 2025, the Parties met and conferred regarding the status of the United States Department of the Interior's ("DOI") review of the North Fork of the Fortymile River between the confluence of Slate and Independence Creeks and its intersection with Champion Creek at issue in this case. In accordance with the Court's Order, the Parties report as follows:

(1) The status of the DOI implementation of Executive Order 14153 with respect to this waterway.

Section 3(b)(xxi) of Executive Order (“EO”) 14153 directed the Secretary of the Interior to, among other things, conduct a review of waterways in Alaska and provide recommendations of navigable waterways subject to the equal footing doctrine and the Submerged Lands Act of 1953. On February 3, 2025, Secretary Doug Burgum signed Secretarial Order (“SO”) 3422. Section 6(a) of SO 3422 directed the Assistant Secretary – Land and Minerals Management, in coordination with other Assistant Secretaries, to submit an action plan describing the necessary and appropriate steps to execute the directives found in EO 14153, including Section 3(b)(xxi). Accordingly, those action plans were due to the Secretary by February 18.

In accordance with SO 3422, Interior personnel have prepared materials for incoming decisionmakers regarding appropriate parameters for the action plans. Action plans are under active consideration by Department officials.

(2) Whether the DOI has determined whether to review this waterway and its current status on that decision.

DOI has not yet made a determination. Pursuant to the action plan submitted to the Secretary, DOI is in the process of determining whether any waterways will be excluded from the review and evaluating the resources and parameters necessary for the review and the order in which to conduct them. No decisions have yet been made by the Department regarding whether to exclude any waterways, including the North Fork of the Fortymile River, from review.

(3) The DOI's current status in reviewing this waterway.

DOI has not determined whether this waterway will be subject to review and therefore any report as to the status of such a review is premature.

(4) Any final decision regarding this waterway resulting from the DOI's review.

DOI has not determined whether this waterway will be subject to review and therefore any report on a decision resulting from such a review is premature.

In accordance with the Court's Order, the Parties will continue to meet and confer regarding DOI's review of the waterway at issue in this case and will provide a subsequent status report no later than May 2, 2025.

Additional Statement by the State of Alaska

The parties also continue to discuss how best to structure their monthly conferences in light of the President's and Secretary's orders to review the statewide navigability program. Given the importance of the technical expertise of the principals to understanding and explaining the status of the review, and the importance of having a real-time exchange of that information, the State asserts that these meetings would be most beneficial if the DOI provide a representative from the Bureau of Land Management familiar with the review process and the State provide a representative from the State Department of Natural Resources. In that way, both parties would be afforded direct communication without the information flowing through the filters of each side's legal counsel. Counsel would be present to ensure that any privileges were asserted and maintained, if necessary, but the conferences primarily would be meetings between representatives of the federal and state agencies. This structure was contemplated by the State in its decision to not oppose the

United States' motion to continue this matter, and the State views it necessary going forward to make meaningful use of the review time.

Statement in Response by the United States

The United States disagrees with Alaska's suggestion that party representatives be required to attend the regular meet and confers prescribed by the Court's Order on Motion to Continue Trial. The Court's Order contains no such requirement. If the State now wishes for party representatives to attend future meet and confers, the State may request such relief through a properly filed motion with the Court. The State's newly suggested precondition is also unnecessary. Representatives from the State Department of Natural Resources are free to meet with representatives from the Bureau of Land Management to discuss DOI's review of waterways whenever they wish outside the meet and confers. The United States reserves the right to raise further arguments as appropriate should the State properly present this matter in a motion before the Court.

Respectfully submitted, March 3, 2025.

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